

The Commonwealth
vs. Σ Records

P. J. & M. S. Cohen

Costs in Norfolk Borough Court.

Commonwealth's Costs \$31.30

Defendants' Costs 12.95

Filed Feb. 6th 1821

Virginia

Decided 1821

1068

THE UNITED STATES, of America
District of Columbia, &c.

To The Commonwealth of Virginia Greeting:

YOU are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday in ~~February~~
~~February~~ next, pursuant to a writ of error filed in the Clerk's office of the ~~Circuit~~ court of the United States, for the district of Columbia, in the cause ~~in a cause~~ wherein ~~Philip J. Cohen & Leander S. Cohen~~ plaintiff in error, and
~~The said Commonwealth of Virginia is~~
~~defendant, to shew cause, if any there be, why the judgment rendered against the said~~
~~Philip J. Cohen & Leander S. Cohen~~
as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, The honorable John Marshall Chief Justice
~~of the said Supreme Court~~ Judge of the circuit court for the district of Columbia, this 17th day
of October A. D. 1820
John Marshall J. of the US

~~DISTRICT OF COLUMBIA,~~
City of Richmond } ss.

ON this twenty three day of October in
the year of our Lord one thousand eight hundred and twenty
Gustavus A. Myers — personally appeared before
me Wm H. Fitzwiley Brown Recorder of the City and being duly
sworn, deposeth and saith, that on this 23^d day of October
he delivered a true copy of the above citation to his Excellency Thomas
Mann Randolph, Governor of the State of Virginia,
and another true copy thereof he delivered on the
said 23^d day of October to John Robertson Esq
Attorney General of the State aforesaid.

Wm H. Fitzwiley Brown

STATE OF VIRGINIA

Commonwealth of Virginia

County

5

Know all men by these presents that I, Thomas Howard, Clerk of the Court of Hustings for the said City of Richmond do hereby certify that Wm & Fitzpatrick Esq; whose name is subscribed to the Certificate on the other side of this paper, now is and was at the time of subscribing the same, Recorder of the said City elected and qualified according to law - In Testimony whereof I hereunto set my hand and affix the seal of the said Court at my Office this 23^d day of October 1820.

Witness

for the Commonwealth

I, Thomas Howard, Clerk of the Court of Hustings for the said City do hereby certify that Wm & Fitzpatrick Esq; whose name is subscribed to the Certificate on the other side of this paper, now is and was at the time of subscribing the same, Recorder of the said City elected and qualified according to law - In Testimony whereof I hereunto set my hand and affix the seal of the said Court at my Office this 23^d day of October 1820.

Witness

Thos C. Howard

Virginia - City of Richmond County

I, Thomas Howard, Clerk of the Court of Hustings for the said City do hereby certify that Wm & Fitzpatrick Esq; whose name is subscribed to the Certificate on the other side of this paper, now is and was at the time of subscribing the same, Recorder of the said City elected and qualified according to law - In Testimony whereof I hereunto set my hand and affix the seal of the said Court at my Office this 23^d day of October 1820.

Thos C. Howard

Know all men

Philip S. & Mendes I. Cohen and Joseph Marx,

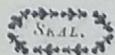
are held and firmly bound unto ~~The Commonwealth of Virginia~~
in the full and just sum of ~~Three hundred dollars~~
to be paid to the said ~~Commonwealth of Virginia~~ ~~their~~
certain attorney, ~~executors, administrators~~ or assigns: to which payment well
and truly to be made, we bind ourselves, our heirs, executors and adminis-
trators, jointly and severally by these presents. Sealed with our seals, and
dated this ~~Thirteenth~~ day of ~~October~~ in the year of
our Lord one thousand eight hundred and ~~Twenty~~.

WHEREAS lately at a ~~Quarterly Session Court~~ court of the Borough of North
~~United States~~ for the district of ~~in~~
~~last past~~, in a suit depending in said ~~circuit~~ court, wherein ~~The said Commonwealth~~
~~of Virginia were Plaintiff~~ and the said Philip S.
~~Mendes I. Cohen were Defendants~~ judgment was rendered against
the said Philip S. & Mendes I. Cohen -

and the said Philip S. & Mendes I. Cohen
having obtained a writ of error, and filed a copy thereof in the clerk's office
of the said ~~circuit~~ court, to reverse the judgment in the aforesaid suit, and a
citation, directed to the said ~~Commonwealth of Virginia~~
citing and admonishing them to be and appear
at a Supreme Court of the United States, to be holden at Washington, on
the first Monday of February - next.

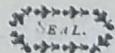
Now the Condition of the above Obligation is Such, That
if the said Philip S. Cohen & Mendes I. Cohen

shall prosecute ~~their~~ writ to effect, and answer
all damages and costs, if ~~they~~ fail to make ~~their~~ plea good, then the
above obligation to be void, else to remain in full force and virtue.



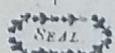
Sealed and delivered
in presence of }

D. M. Crooker



As to the signature
of Philip S. Cohen

Joseph Marx



R. B. Sautter
Samuel Marx
William M. Muller

as to the signature
of Joseph Marx.

United States....ss:

THE PRESIDENT OF THE UNITED STATES,

To the Judges of the ~~Quarterly Session Court for the Boroughs of~~
~~the United States for the District of~~
~~Norfolk in the Commonwealth of Virginia before the Mayor, Recorder~~
~~and Common Councilmen of said Borough.~~

GREETINGS

BECAUSE in the record and proceedings as also in the rendition of the judgment of a plea which is in the said ~~court~~ court before you or some of you, between ~~The Commonwealth of Virginia Plaintiff and Philip J. Bohan & Blenner P. Bohan Defendants~~ the said Quarterly Session Court being the highest Court of Law of the State of Virginia in which a decision in the said suit could be had and in which suit is drawn in question the validity of a Statute or an authority extended under the United States, and the decision is against the Plaintiff a manifest error hath happened, to the great damage of the said ~~Philip J. Bohan & Blenner Bohan~~

as by ~~their~~ complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf: Do command you, if judgment be therein given, that then under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of ~~February~~ next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS, the honorable ~~John Marshall~~ chief justice of the said Supreme Court, this ~~first Mon-~~ day of ~~August~~ in the year of our Lord one thousand eight hundred and twenty and of the Independence of the United States the ~~forty fifth~~

J. B. Calawee

Clerk, Sup. Ct. U. S.

By virtue of this Writ, so us directed, We do hereby certify to the Supreme Court of the United States, the Record and proceedings with all things concerning the same, whereof mention is made in the within Writ, which we the Judges of the Quarterly Session of the Borough of Norfolk in the Commonwealth of Virginia, do hereby certify under our hands and Seals, and the Seal of the said Borough Court of Quarterly Sessions - dated on this 29th day of November 1820.

John Holley Mayor Seal

Wright Southgate Seal

John Tabb Seal

Let it be certified that the above Judicial Seal is

dated this 21st day of January A.D. 1820
and delivered up at the office of the Clerk of the Circuit Court of Norfolk, and
said Seal being signed and acknowledged by the Clerk of the Circuit Court of Norfolk,
therefore has been set apart for delivery to the Clerk of the Circuit Court of Norfolk and
is true & correct as of this day of January A.D. 1820. I do further certify that
the same is now and then and always hereafter to remain the property of the said Clerk of
Norfolk and is to be delivered to him only to take notice and receive of his seal such
and no other person or persons than he shall be entitled to receive.

To witness whereof, I have caused to be affixed my Seal and affixed to the same this 21st day of January A.D. 1820.

John Holley Mayor

(1)

Gleas at the Courthouse of Norfolk Borough before the Mayor Recorder and Alderman of the said Borough on Saturday the second day of September one Thousand eight hundred and Twenty and in the forty fifth year of the Commonwealth

Be it remembered that heretofore to wit

At a Quarterly Session Court held the twenty sixth day of June one thousand eight hundred and Twenty, the Grand Jury duly summoned and impaneled for the said Borough of Norfolk and sworn and charged according to Law made a present-
ment in these words

Presentm. "We present S. J. and M. J. Cohen for sending and selling two halves and four quarter Lottery Tickets of the National Lottery to be drawn at Washington to William A. Jennings at their Office at the corner of Maywells Wharf contrary to the Act thus made and provided in that Case, since January 1820; on the Information of William A. Jennings"

Whereupon the regular process of Law was awarded against the said defendants to answer the said Presentment returnable to the next succeeding Term which was duly returned by the Sergeant of the Borough of Norfolk Executed

And at another Quarterly Session Court held for the said Borough of Norfolk the Twenty eighth day of August one Thousand eight hundred and Twenty came as well the Attorney prosecuting for the Commonwealth in this Court as the defendants by their attorney, and on the motion of the said attorney leave is given him by the Court to file an Information against the Defendants on the Presentment aforesaid which was accordingly filed in these words

"Norfolk Borough to wit

"Be it remembered that James Attimo attorney for

Infam:

(2)

"the Commonwealth of Virginia in the Court of the said Borough of
Norfolk cometh into Court in his proper person and with leave of the
Court, giveth the said Court to understand and be informed that by an
Act of the General Assembly of the said Commonwealth of Virginia enti-
tled an Act to reduce into one the several acts and parts of acts to
prevent unlawful gaming, it is among other things enacted and declared
"that no person or persons shall buy or sell within the said Commonwealth
any Lottery or part or share of of a Lottery Ticket except in such Lottery
or Lotteries as may be authorised by the Laws thereof: And the said
James Nimmo as attorney aforesaid further giveth the Court to understand
and be informed that R. J. and M. J. Cohen traders and partners late of
the Parish of Elizabeth River and Borough of Norfolk aforesaid being
evil disposed persons and totally regardless of the Laws and Statutes of the
said Commonwealth since the first day of January in the year of our
Lord one thousand eight hundred and Twenty, that is to say, on the first
day of June in that year and within the said Commonwealth of Virginia
To wit, at the Parish of Elizabeth River in the said Borough of Norfolk
and within the Jurisdiction of this Court, did then and there unlawfully buy
and sell and deliver unto a certain William H. Jennings two half Lottery Tickets
and four quarter Lottery Tickets of the National Lottery to be drawn in the
City of Washington, that being a Lottery not authorised by the Laws of this
Comm^{ty}. to the wil example of all other persons in the like case offending
and against the form of the act of the General Assembly in that can made
and provided

"James Nimmo for the Comm^{ty}.

And at this same Quarterly Session Court continued by adjournment
and held for the said Borough of Norfolk the second day of September

1820, came as well the attorney prosecuting for the Commonwealth in this Court
 to guilty as the Defendants by their attorney and the said Defendants for plea saith
 that they are not guilty in manner and form as in the Information against
 them is alledged and of this they put themselves upon the County and the
 attorney for the Commonwealth doth the same; Whereupon a Case was agreed by
 them to be argued in lieu of a special verdict and is in these words

"Commonwealth against Cohens, Case agreed.

~~Case agreed~~ "In this case the following statement is admitted and agreed
 by the parties in lieu of a special verdict; That the defendants on the first
 day of June in the year of our Lord eighteen hundred and Twenty and within
 the Borough of Norfolk in the Commonwealth of Virginia sold to William H
 Jennings a Lottery Ticket in the Lottery called and denominated the National
 Lottery to be drawn in the City of Washington within the District of Columbia
 "That the General Assembly of the State of Virginia enacted a Statute or act
 of Assembly which went into operation on the first day of January in the year
 of our Lord 1820, and which is still un-repealed in the words following -

Prohibition Sect. 27. 'No person to raise money for himself or another shall publickly or
 of Lotteries privately put up a Lottery to be drawn or advertised for, or any prize or thing to be
 raffled or played for; and whosoever shall offend herein shall forfeit the whole sum
 of money proposed to be raised by such Lottery raffling or playing, to be recovered
 by action of Debt in the name of any person who shall sue for the same or by
 Indictment or Information in the name of the Commonwealth in either case for the
 use and benefit of the Literary Fund - nor shall any person or persons buy or
 sell within this Commonwealth any Lottery Ticket or part or share of a Lottery Ticket
 except in such Lottery or Lotteries as may be authorised by the Law thereof; and any
 person or persons offending herein shall forfeit and pay for every such offence

(6)

'the sum of one hundred dollars to be recovered and appropriated in manner
last aforesaid.'

"That the Congress of the United States enacted a Statute on the 3rd day
of May in the year of our Lord 1802 entitled an act &c. in the words and
figures following."

"An Act to incorporate the Inhabitants of the City of Washington
in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United
States of America in Congress assembled, That the Inhabitants of the
City of Washington be constituted a body politic and corporate by the name
of a Mayor and Council of the City of Washington and by their Corporate
name may sue and be sued, mislead and be impleaded, grant receive and do
all other acts as natural persons and may purchase and hold real, personal &
mixed property or dispose of the same for the benefit of the said City; and
may have and use a City seal which may be altered at pleasure. - The
City of Washington shall be divided into three divisions or Wards as now divi-
ded by the Levy Court for the County for the purpose of Assessment; but the
number may be increased hereafter as in the wisdom of the City Council
shall seem most conducive to the general interest and convenience. -

Sect: 2. And be it further enacted, That the Council of the City of
Washington shall consist of Twelve members residents of the City and
upwards of Twenty five years of age to be divided into Two Chambers; the
first Chamber to consist of seven members and the second Chamber of five
members; the second Chamber to be chosen from the whole number of Coun-
cillors elected by their joint Ballot. - The City Council to be elected annually
by Ballot in a general Ticket by the free white male inhabitants of full
age

5

age who have resided twelve months in the City and paid Taxes therein the year preceding the elections being held; The Justices of the County of Washington resident in the City or any three of them to preside as Judges of Election with such associates as the Council may, from time to time appoint.

Sect. 3. And be it further enacted, That the first election of members for the City Council shall be held on the first Monday in June next, and in every year afterwards at such place in each ward as the Judges of the Elections may prescribe.

Sect. 4. And be it further enacted, That the Polls shall be kept open from eight o'clock in the morning till seven o'clock in the evening and no longer for the reception of Ballots. On the closing of the Poll, the Judges shall close and seal their Ballot boxes and meet on the day following in the presence of the Marshal of the District, on the first election, and the Council afterwards, when the seals shall be broken and the votes counted; within three days after such election they shall give notice to the persons having the greatest number of ^{legal} votes that they are duly elected and shall make their return to the Mayor of the City.

Sect. 5. And be it further enacted, That the Mayor of the City shall be appointed annually by the President of the United States. He must be a Citizen of the United States and a resident of the City prior to his appointment.

Sect. 6. And be it further enacted, That the City Council shall hold their sittings in the City Hall, or until such building is erected in such place as the Mayor may provide for that purpose on the second Monday in June in every year; but the Mayor may convene them offence of the public good require their deliberations. Three fourths of the members of each Council may be a Quorum to do business, but a smaller number may adjourn from day to day. They may compel the attendance of absent members in such manner and under such penalties as they may by Ordinance provide; They shall appoint their respecter

respective Presidents who shall preside during their sessions and shall vote on all questions where there is an equal division; They shall settle their rules of proceedings, appoint their own Officers, regulate their respective fees and remove them at pleasure; They shall judge of the elections returns and qualifications of their own members and may with the concurrence of three fourths of the whole expell any member for disorderly behaviour or malconduct in office but not a second time for the same offence; They shall keep a Journal of their proceedings and enter the Yeas and Nays on any question, resolve or Ordinance at the request of any member and their deliberations shall be public. The Mayor shall appoint to all offices under the Corporation. All Ordinances or acts passed by the City Council shall be sent to the Mayor for his approbation, and when approved by him, shall then be obliging as such. But if the said Mayor shall not approve of such Ordinance or act he shall return the same within five days with his reasons in writing therefor and if three fourths of both branches of the City Council on reconsideration thereof approve of the same it shall be in force in like manner as if he has approved of it unless the City Council by their adjournment prevent its return.—

Sect 7. And be it further enacted, That the Corporation aforesaid shall have full power and authority to pass all bye Laws and Ordinances, to prevent and remove nuisances; to prevent the introduction of Contagious diseases within the City; to establish night watches or patrols and erect Samps; to regulate the stationing, anchorage and mooring of Vessels; to provide for licensing and regulating auctions, retailers of liquors, huckney carriages, Waggon Carts and drays and pawn brokers within the City,

to restrain or prohibit gambling and to provide for licensing, regulating or restraining theatrical or other public amusements within the City; to regulate and establish markets; to erect and repair bridges; to keep in repair all necessary streets, avenues, drains and sewers and to pass regulations necessary for the preservation of the same agreeably to the plan of the said City; to provide for the safe keeping of the standard of weights and measures fixed by Congress, and for the regulation of all weights and measures used in the City; to provide for the licensing and regulating the sweeping of chimneys and fixing the rates thereof; to establish and regulate fire Wards and fire Companies; to regulate and establish the size of Bricks that are to be made and used in the City; to sink Wells and need and repair pumps in the Streets; to impose and appropriate fines, penalties and forfeitures for breach of their Ordinances; to lay and collect taxes; to enact bye laws for the prevention and extinguishment of fires; and to pass all Ordinances necessary to give effect and operation to all the powers vested in the Corporation of the City of Washington. Provided, That the bye Laws or Ordinances of the said Corporation shall in no wise obligatory upon the persons of non-residents of the said City unless in cases of intentional violation of the bye laws or Ordinances previously promulgated. All the fines penalties and forfeitures imposed by the Corporation of the City of Washington if not exceeding Twenty dollars, shall be recovered before a single magistrate, as small debts are by Law recoverable; and if such fines penalties and forfeitures exceed the sum of Twenty dollars the same shall be recovered by action of debt in the Circuit Court of Columbia for the County of Washington in the name of the Corporation and for the use of the City of Washington.

Sect 8. And so it further enacted, That the person or persons appointed to collect any Taxe imposed in virtue of the powers granted by this act shall

8

have authority to collect the same by duty on sale of the goods and chattels of the person chargeable therewith; no sale shall be made until ten days notice thereof be given; No Law shall be passed by the City Council subjecting vacant or unimproved City Lots or parts of lots to be sold for Taxes -

Sect. 9. And be it further enacted, That the City Council shall provide for the support of the poor, infirm & diseased of the City -

Sect. 10. Provided always and be it further enacted, That no Tax shall be imposed by the City Council on Real property in the said City at any higher rate than three quarters of one per centum on the appromt valuation of such property -

Sect. 11. And be it further enacted, That this act shall be in force for two years from the taking thereof and from thence to the end of the next session of Congress thereafter and no longer -

Nathl. Macon

Speaker of the House of Representatives,

Abram Galloway

Approved. May 3. 1802.

President of the Senate pro Tempore

Thomas Jefferson

And another act on the 23 day of February 1803 entitled
An act supplementary to an act entitllie an act to Incorporate the
Inhabitants of the City of Washington in the District of Columbia
Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled, That the act entitled
an act to incorporate the Inhabitants of the City of Washington in
the District of Columbia except so much of the same as is inconsistent
with

(9)

with the provisions of this Act be and the same is hereby continued in force for and during the term of fifteen years from the end of the next Session of Congress
Sect: 2. And Be it further enacted, That the Council of the City of Washington from and after the period for which the members of the present Council have been elected, shall consist of two Chambers each of which shall be composed of Nine members chosen by distinct Ballots according to the directions of the act to which this is a supplement, a majority of each Chamber shall constitute a Quorum to do business. - In case vacancies shall occur in the Council, the Chamber in which the same may happen shall supply the same by an election by Ballot from three persons next highest on the list to those elected at the preceding election; and a majority of the whole number of the Chamber in which such vacancy may happen shall be necessary to make an election. -

Sect: 3. And Be it further enacted, That the Council shall have power to establish and regulate the Inspection of Flour, Tobacco and salted provisions, the gauging of Casks and liquors, the storage of Gun powder and all naval and military Stores not the property of the United States, to regulate the weight and quality of Bread, to tax and license Hawkers and pedlars, to restrain and prohibit Tipping houses Lotteries and all kinds of Gaming, to superintend the health of the City, to erect repair and regulate public Wharves and to deepen Docks and Basins, to provide for the establishment and superintendance of public Schools, to license and regulate exclusively Hackney Coaches, Ordinary Keepers, retailers and Ferries to provide for the appointment of Inspectors, Constables and such other Officers as may be necessary to execute the Laws of the Corporation and to give such compensation to the Mayor of the City as they may deem fit.

Sect: 4. And Be it further enacted, That the Levy Court of the County of Washington shall not hereafter possess the power of imposing any

¹⁰
any Tax on the Inhabitants of the city of Washington.

Nath^r. Macon

Speaker of the House of Representatives

John Brown

Approved February 26. 1804 -

President of the Senate pro Tempore

Thomas Jefferson

That the Congress of the United States on the 6th Day of May in the year of our Lord 1812 enacted another Statute entitled

An Act further to amend the Charter of the City of Washington Corporation Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first Monday in June next, the Corporation of the City of Washington shall be composed of a Mayor, a Board of Aldermen and a Board of Common Council to be elected by Ballot as hereafter directed. - The Board of Aldermen shall consist of eight members to be elected for two years ~~two~~ to be residents of and chosen from each Ward by the qualified voters therein; And the Board of Common Council shall consist of twelve members to be elected for one year, three to be residents of and chosen from each Ward in manner aforesaid and each Board shall meet at the Council Chamber on the second Monday in June next (for the dispatch of business) at ten o'clock in the morning and on the same day and at the same hour annually thereafter. A majority of each Board shall be necessary to form a Quorum to do business but a smaller number may adjourn from Day to Day. -

The Board of Aldermen immediately after they shall have assembled in consequence of the first election, shall divide themselves by lot in Two Clusters, The seats of the first Cluster shall be vacated at the expiration

of one year, and the seats of the second Chap shall be vacated at the expiration of two years, so that one half may be chosen every year. Each Board shall appoint its own President from among its own members who shall preside during the sessions of the Board and shall have a casting vote on all questions where there is an equal division; Provided, such equality shall not have been occasioned by his previous vote.

Sect. 2. And Be it further enacted, That no person shall be eligible to a seat in the Board of Aldermen or Board of Common Council unless he shall be more than twenty five years of age, a free white male citizen of the United States and shall have been a resident of the City of Washington one whole year next preceding the day of the Election and shall at the time of his election be a resident of the Ward for which he shall be elected and possessed of a Freehold estate in the said City of Washington and shall have been apayed two months preceding the Day of Election. And every white male citizen of lawful age who shall have resided in the City of Washington for the space of one year next preceding the day of election and shall be a resident of the Ward in which he shall offer to vote and shall have been apayed on the Books of the Corporation not less than two months prior to the day of election shall be qualified to vote for members to serve in the said Board of Aldermen and Board of Common Council, and no person whatsoever shall exercise the right of suffrage at such election.

Sect. 3. And Be it further enacted, That the present Mayor of the City of Washington shall be and continue such until the second Monday in June next, on which Day, and on the second Monday in June annually thereafter, the Mayor of the said City shall be elected by Ballot of the Board of Aldermen and Board of Common Council in joint meeting, and a majority of the votes of all the members of both boards shall be necessary to a choice; and if

if there should be an equality of votes between two persons after the third ballot the two houses shall determine the choice by Lot. He shall before he enters upon the duties of his Office take an Oath or affirmation in the presence of both Boards lawfully to execute the duties of his Office to the best of his skill and Judgment without favor or partiality. He shall have and exercise all the powers, authority and jurisdiction of a Justice of the peace for the County of Washington within the said County. He shall nominate and with the consent of a majority of the members of the Board of Aldermen appoint to all offices under the Corporation (except the Commissioner of election) and any such Officer shall be removed from Office on the concurrent remonstrance of a majority of the two Boards. He shall see that the Laws of the Corporation be duly executed and shall report the negligence or misconduct of any Officer to the two Boards. He shall appoint proper persons to fill up all vacancies during the recess of the Board of Aldermen, to hold such appointment until the end of the then ensuing session. He shall have full power to convene the two Boards when in his opinion the good of Community may require it and he shall lay before them from time to time in writing such alterations in the Law of the Corporation as he shall deem necessary and proper and shall receive for his services annually, a just and reasonable compensation to be allowed and fixed by the two Boards which shall neither be increased or diminished during the period for which he shall have been elected. Any person shall be eligible to the Office of Mayor who is a free white male citizen of the United States who shall have attained to the age of Thirty years and who shall be the bona fide owner of mayoralty.

13

owner of a freehold estate in the said City and shall have been resident in the said City two years immediately preceding his election and no other person shall be eligible to the said Office. - In case of the refusal of any person to accept the Office of Mayor upon his election thereto, or of his death, resignation, inability or removal from the City, the said Two Boards shall elect another in his place to serve the remainder of the year.

Sect. 4^o. And Be it further enacted, That the first election for members of the Board of Aldermen and Board of Common Council shall be held on the First Monday in June next and on the first Monday in June annually thereafter; the first election to be held by three Commissioners to be appointed in each Ward by the Mayor of the City and at such place in each Ward as he may direct; and all subsequent elections shall be held by a like number of Commissioners to be appointed in each Ward by the Two Boards in joint meeting which several appointments except the first shall be at least ten Days previous to the day of each election. And it shall be the duty of the Mayor for the first election and of the Commissioners of all subsequent elections to give at least five Days previous notice of the place in each Ward where such elections are to be held. The said Commissioners shall before they receive any Ballot severally take the following oath or affirmation to be administered by the Mayor of the City or any Justice of the Peace for the County of Washington: "I A.B. do solemnly swear or affirm as the case may be, that I will truly and faithfully receive and return the votes of such persons as are by Law entitled to vote for members of the Board of Aldermen and Board of Common Council in Ward No. ¹ according to the best of my Judgment and understanding, and that I will not knowingly receive or return the vote of any person who is not legally entitled to the same to help me God." The Polls shall be opened at ten O'clock in the morning and

and be done at seven o'clock of the evening of the same Day - Immediately
on closing the Polls the Commissioners of each Ward or a majority of them shall
count the Ballots and make out under their hands and seals a correct return
of the two persons for the first election, and of the one person for all subse-
quent elections, having the greatest number of legal votes, together with
the number of votes given to each, as members of the Board of Aldermen;
and of the three persons having the greatest number of legal votes, together
with the number of votes given to each, as members of the Board of
Common Council; and the two persons at the first election and the one
person at all subsequent elections having the greatest number of legal
votes, for the Board of Aldermen; and the three persons having the
greatest number of legal votes for the Board of Common Council shall
be duly elected, and in all cases of an equality of votes the Commissioners shall
decide by Lot. - The said returns shall be delivered to the mayor of the City
on the succeeding Day, who shall cause the same to be published in some
Newspaper printed in the City of Washington - A duplicate return,
together with a list of the persons who voted at such election, shall also be
made by the said Commissioners to the Register of the City on the Day
succeeding the election, who shall preserve and record the same, and shall
within two Days thereafter, notify the several persons so returned of
their election. - And each Board shall judge of the legality of the elections
returns and qualifications of its own members; and shall supply vacancies
in its own body, by causing elections to be made to fill the same in the
Halls and for the Board in which such vacancies shall happen, giving
at least five Days notice previous thereto; and each Board shall have
full power to pass all Rules necessary and expedient to enable itself to

13

come to a decision in Cases of a Contested election of its members; and the several members of each Board shall before entering upon the duties of their Office take the following oath or affirmation I do swear (or solemnly affirm and declare as the case may be) that I will faithfully execute the Office of to the best of my knowledge and ability which oath or affirmation shall be administered by the mayor or some Justice of the Peace for the County of Washington.

Sect 5. And Be it further enacted, That in addition to the power heretofore granted to the Corporation of the City of Washington by an act entitled An Act to incorporate the Inhabitants of the City of Washington in the District of Columbia" and an act entitled An act supplementary to an act entitled an act to incorporate the Inhabitants of the City of Washington in the District of Columbia, the said Corporation shall have power to lay taxes on particular
affection. Wards, parts or sections of the City for their particular local improvements; that
and after providing for all objects of a general nature the Taxes raised on the assessable
property in each ward shall be expended therein, and in no other, in regulating
filling up and repairing of Streets and avenues, building of Bridges, sinking of
Wells, setting pumps and keeping them in repair, in conveying Water in pumps
and in the preservation of Springs; in erecting and repairing Wharves; in providing
for engines and other apparatus for the extention of Docks; and for other local
improvements and purposes in such manner as the said Board of Aldermen and
said of Common Council shall provide: But the sum raised for the support of
suphal of the Poor, aged and infirm shall be a charge on each Ward in proportion to its
the poor to
original population or taxation as the two Boards shall decide. That whenever the
charge.
proprietors of two thirds of the inhabited houses fronting on both sides of a street
or part of a street, shall by petition to the two Branches refresh him same
of improving the same by laying the Rub stone of the foot pavement and
paving

paring the gutters or carriage way thereof, or otherwise improving said street
 agreeably to its graduation; the said Corporation shall have power to cause
 to be done at any expence not exceeding two Dollars and fifty cents per
 front foot of the Lots fronting on each improved street or part of a street
 and charge the same to the owners of the Lots fronting on such street or part
 of a street in due proportion; and also on a like petition to provide for
 erecting Lamps for lighting any street or part of a street and to defray
 the expence thereof by a tax on the proprietors or inhabitants of such houses
 in proportion to their rental or valuation as the two Boards shall decide
^{upon} of Sect 6. And Be it further enacted, That the said Corporation shall
^{the Corpora}
 have full power and authority to erect and establish hospitals or pest houses
 work houses, homes of correction, penitentiary and other public buildings
 for the use of the City, and to lay and collect Taxes for the defraying the
 expences thereof; to regulate party and other fences and to determine by
 whom the same shall be made and kept in repair, to lay open Streets
 avenues, lanes and alleys and to regulate and prohibit all enclosures thereof
 and to occupy and improve for public purposes by and with consent of the
 President of the United States any part of the public and open spaces
 or squares in said City not interfering with any private rights; to regulate
 the measurement of and weight by which all articles brought into the City
 for sale shall be disposed of; to provide for the appointment of Appraisers
 and measurers of bakers work and materials and also of Wood, coals,
 grain and lumber; to restrain and prohibit the nightly and other disorderly
 meetings of slaves, free negroes and mulattoes, and to punish
 such slaves by whipping not exceeding Thirty stripes or by imprisonment
 not exceeding six calendar months for any one offence, and to furnish
 such

such free negroes and mulattoes for such offences, by fixed penalties not exceeding Twenty Dollars for every one offence; and in case of inability of any such Town or ^{the Captain} free negro or mulatto to pay and satisfy any such penalty and Costs theron, to cause such free negro or mulatto to be confined to labour for such reasonable time not exceeding six calendar months for any one offence as may be deemed equivalent to such penalty and Costs, to cause all vagrants, idle or disorderly persons, all persons of evil life or ill fame and all such as have no visible means of support or are likely to become chargeable to the City as paupers or are found begging or drunk in or about the streets, or loitering in or about tippling houses, or who can show no reasonable cause of business or employment in the City; and all suspicious persons and all who have no fixed place of residence or cannot give a good account of themselves, all cross-dressers and night walkers, all who are guilty of open profanity or grossly indecent language or behavior, publicly in the streets, all public prostitutes and such as lead a notoriously lewd or lascivious course of life; and all such as keep public gaming tables or gaming houses to give security for their good behaviour for a reasonable time and to indemnify the City against any charge for their support and in case of their refusal or inability to give such security to cause them to be confined to labour for a limited time not exceeding one year at a time unless such security should be given sooner; but if they shall afterwards be found again offending, such security may be again required and for want thereof the like proceedings may be again be had from time to time as often as may be necessary; to prescribe the terms and conditions upon which free negroes, mulattoes and others who can show no visible means of support may reside in the City; to cause the avenues, streets, lanes and alleys to be kept clear and to appoint officers for that purpose;

Solemnly to authorise the drawing of Lotteries for effecting any important improvement
authorised in the City which the ordinary funds or revenue thereof will not accomplish
Provided, Provided that the amount to be raised in each year shall not exceed the
sum of Ten Thousand Dollars: And provided also, That the object for
which the money is intended to be raised shall be first submitted to the
President of the United States and shall be approved of by him; to take
care of graves and regulate the several burying grounds within the City
to provide for registering of births, deaths and marriages, to cause abstracts
or minutes of all transfers of real property, both freehold and leasehold to
be lodged in the Registry of the City at stated periods; to authorise
night watches and patrols and the taking up and confining by them
in the night time of all suspected persons, to punish by Laws corporally
any servant or slave guilty of a breach of any of their Bye-Laws or
Ordinances unless the master or holder of such servant or slave shall pay
the fine annexed to the offence; and to pass all Laws which shall be
deemed necessary and proper for carrying into execution the foregoing
powers and all other powers vested in the Corporation or any of its Officers
either by this act or any former act:-

Sect 7. And Be it further enacted, That the Marshal of the
District of Columbia shall receive and safely keep within the Jail for
Washington County at the expense of the City all persons committed thereto
under the tenth section of this act until other arrangements be made
by the Corporation for the confinement of offenders within the provisions
of the said section; and in all cases where suit shall be brought before
a Justice of the Peace for the recovery of any fine or penalty arising
or incurred for a breach of any Bye-Law or ordinance of the Corporation

(19)

upon a return of *stella bona* to any *Ten Dolors* apes against the property
of the Defendant or Defendants, it shall be the duty of the Clerk of the Circuit
Court for the County of Washington when required to issue a *Writ of Execution* as
satisfacatum against any such Defendant returnable to the next Circuit Court
for the County of Washington thereafter and which shall be proceeded on as
in other Writs of the like kind.

Sect 8. And Be it further enacted, That unimproved Lots in the City of
Washington on which Two years Taxes remain due and unpaid, or so much
thereof as may be necessary to pay such Taxes may be sold at public sale for
such Taxes due thereon: Provided, That public notice be given of the time
and place of sale by advertising in some news-paper printed in the City of
Washington at least Six months, where property belonging to persons residing
out of the United States, Three months where the property belongs to persons
residing in the United States, but without the limits of the District of Columbia
and Six Weeks where the property belongs to persons residing within the District
of Columbia or City of Washington; in which notice shall be stated, the number
of the Lot or Lots, the number of the square or squares the name of the person
or persons to whom the same may have been apportioned, and also the amount of
Taxes due thereon: And Provides also, That the purchaser shall not be
obliged to pay at the time of such sale more than the Taxes due and the
expenses of sale; and that if within Two years from the day of such sale
the proprietor or proprietor of such Lot or Lots or his or their heirs, representatives
or agents shall repay to such purchaser the moneys paid for the Taxes and
expenses as aforesaid, together with an *fee judicium* per annum Interest
thereon or make a *lender* of the same, he shall be remitted in his original
right and title; but if no such payment or taxes be made within Two

(20)

years next after the said Sale then the purchaser shall pay the balance of the purchase money of such Lot or Lots into the City Treasury where it shall remain subject to the order of the original proprietor or proprietors his or their heirs or legal representatives and the purchaser shall receive a title in fee simple estate to the Lot or Lots upon the hand of the mayor and seal of the Corporation which shall be deemed good and valid in Law and Equity. —

Sect. 9. And Be it further enacted, That the said Corporation shall in future be named and styled, "The Mayor, Aldermen and Common Council of the City of Washington"; and if there shall have been a non election or infidelity in the election of a City Council on the first Monday in June last, it shall not be taken, construed or adjudged in any manner to have operated as a dissolution of the said Corporation or to affect any of its rights, franchises or Laws passed previous to the second Monday in June last but the same are hereby declared to exist in full force. —

Sect. 10. And Be it further enacted, That the Corporation shall from time to time cause the several Streets of the City to be so located as to give as nearly as may be an equal number of votes to each Street and it shall be the duty of the Register of the City or such Officer as the Corporation may hereafter appoint to furnish the Commissioners of Election for each Street on the first Monday in June annually previous to the opening of the Polls a List of the persons having a right to vote agreeably to the provisions of the second section of this act. —

Sect. 11. And Be it further enacted, That so much of any

(21)

former act as shall be repugnant to the provisions of this act be made the
same is hereby repealed -

H. Clay

Speaker of the House of Representatives

Wm H. Crawford

President of the Senate Pro Tempore

Approved - May 5th 1812.

James Madison

Which Statutes are still in force and unpealed -

That the Lottery denominated The National Lottery before mentioned, the
Ticket of which was sold by the Defendants as aforesaid was duly created by
the said Corporation of Washington and the drawing thereof and the sale of the
said Ticket was duly authorized by the said Corporation for the objects and
purposes and in the mode directed by the said Statute of the Congress of the
United States -

If upon this case the Court shall be of opinion that the acts of Congress before
mentioned were valid, and on the true construction of these acts the Lottery Ticket
sold by the said Defendants as aforesaid might lawfully be sold within the state of
Virginia notwithstanding the act or statute of the General Assembly of
Virginia prohibiting such sale, then Judgment to be entered for the Defendants.
But if the Court should be of opinion that the Statute or act of the General
Assembly of the state of Virginia prohibiting such sale is valid notwithstanding
the said acts of Congress, then Judgment to be entered that the Defendants are
Guilty of the Commonwealth accuse against them One Thousand Dollars
and Costs -

Taylor for Defendants

And whereupon the matters of Law arising upon the said cause agreed
being

(22)

being argued it seems to the Court here that the Law is for the common
Judgm^t. wealth and that the Defendants are guilty in manner and form
of the Courts as in the Information against them is alleged and they do assess
their Fine to One Hundred Dollars besides the Costs. Therefore
It is considered by the Court that the Commonwealth recover against
the said Defendants to the use of the President & Director of the
Literary Fund one Hundred Dollars the Fine by the Court aforesaid
in manner aforesaid assessed and the Costs of this prosecution: And
the said Defendants may be taken $\text{P}.$

From which Judgment the Defendants by their Council prayed
an Appeal to the next Superior Court of Law of Norfolk County
which was refused by the Court in as much as cases of this sort
are not subject to revision in any other Court of the Commonwealth
Comm^t the Costs \$31.50.

Copies Teste

Wm Sharp S.N.B.C.